



# City of Johnson City Tennessee

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## **BOARD OF ZONING APPEALS CITY OF JOHNSON CITY, TENNESSEE**

Minutes of the Meeting of  
February 12, 2013

The Board of Zoning Appeals held its regular meeting on February 12<sup>th</sup> at 9:00 a.m. in the City Commission Chambers of the Municipal and Safety Building.

### **Members Present**

Jeff Benedict, Vice-Chairman  
Dwight Harrell  
Steve Meroney  
Jamie Povlich  
Tim O'Neill, Chairman

### **Staff Present**

Steve Neilson, Development Coordinator  
Tim Seaton, Construction Inspector

Mr. O'Neill called the meeting to order.

Election of Officers

**MOTION: Harrell**                      **To deter election of officer until the next meeting.**

**SECOND: Povlich**

**VOTE: Approved 5-0**

The Minutes of the December 11, 2012 meeting were considered for approval.

**MOTION: Povlich**                      **To approve the minutes of the December 11, 2012 meeting.**

**SECOND: Meroney**

**VOTE: Approved 3-0-2**

### **Case No. 766-1**

Mr. Neilson indicated that this was a variance request to the front yard and size for a garage. He indicated that the petitioner stated that due to the steep topography, it would be very difficult to construct the structure in the side yard. In addition, the petitioner is requesting a variance to the size of the building from 850 square feet to 936 square feet. Due to the steep topography, staff feels a variance to allow the structure in the front yard is appropriate. However, there is no justification for a variance to allow a larger building. Mr. Neilson then recommended approval

of the setback due to the steep topography, but recommended denial of the request for a larger structure.

Mrs. Weaver spoke in favor of the request.

Mr. Neilson informed the Board that the a Planning Commission subcommittee was currently reviewing the size of accessory buildings was proposing to amend the regulations to allow up to a 1,200 square foot building. However, he cautioned the Board that this was only a recommendation which had not been approved.

Mr. Meroney stated in light of the forthcoming amendments he recommended approval of the request.

**MOTION: Meroney                      To approve the variance setback and size of the garage..**

**SECOND: Povlich**

**VOTE: Approved 5-0.**

#### **Case No. 767-1**

Mr. Neilson said that this was a request for special exception approval to expand a church property in the R-2 District. The petitioner is the Liberty Fellowship Church. The church had purchased the property located at the corner of Oakland Avenue and E Holston for church purposes.

Mr. Neilson stated that churches are allowed as special exceptions provided they are located on collector or arterials. A church has been at this location for a number of years and is considered a legally grandfathered use. By purchasing the property on the corner, the church gains frontage on Oakland Avenue which is a collector street. This would bring the church into conformance with this provision.

Staff has received complaints from residences that during church service, there is not enough parking and that cars are parking along the street and in the median. Anthony Todd, Traffic Engineer indicated that he has received calls about this situation, but was unaware of case where vehicle blocks the travel lanes.

Mr. Neilson indicated that he spoke with Dan Foster, the church pastor who indicated that their immediate plans were to improve to the home which has fallen into disrepair. However, their long-term plan was to demolish the home and build additional parking for the church. Purchasing the property does not increase the impact on the church use parking wise, since parking is based on the size of the sanctuary. He stated that he felt that this was an appropriate request which would bring the property into conformance and long-term would improve the parking in the neighborhood and then recommended approval of the request.

Dan Foster speaking in favor of the request indicated that the church received it access to the its parking lot from the alley. He also stated that the alley had been paved primarily due to the

church being there. Mr. Foster indicated that his interest was to improve the parking situation by purchasing the property.

Sam Watson of 1107 E. Holston Avenue stated that E. Holston was a very narrow street and that increasing development would be detrimental to the property. He felt that there was already too much development in the area. He felt that the neighborhood has already lost several houses for churches to expand parking and didn't want to lose any more. He stated that there has been problems with parking in the median and that the neighborhood attempted to have traffic controls put in which the pastor opposed. There were a lot of children in the area and he didn't feel it was appropriate for the church to expand any further.

Claudia McCord of Narrow Lane and who owned property on the west side of the church. She was concerned about lighting in the proposed parking lot. The first thing you would see is bright parking lights when you entered the neighborhood, which would take away from the residential feel. She also expressed a concern about the drainage in the neighborhood and how the new parking lot would impact it. She was concerned that the city's regulations would not be followed. She stated that the church sign was not removed and that the meeting notice sign was not visible from the street. She stated that she was concerned that church has purchased the property prior to getting approval and questioned who at the city gave them assurance that the special exception would be approved.

Elizabeth Shipley of 1002 E. Holston was representing her father, stated that he has been there for seven year and has never had a positive experience with the church concerning the parking. She was concerned that if the church expanded what would they do then.

John Budd of 1004 E. Chilhowie Avenue indicated his house backed to the church. He stated he had no problems with the church and liked having them there. His concern was that the new paved alley has been a cut through and cars were speeding in the alley. He was also concerned that tearing down the house and putting a parking lot would only invite more traffic down the alleyway.

Mr. Meroney asked Mr. Neilson why the city would turn down traffic calming. Mr. Neilson explained the process was that a certain percentage of the neighborhood would have to support the request before the city would consider installing traffic calming. He stated that he would have to confirm it with Anthony Todd but he felt that the neighborhood probably didn't meet that minimum threshold.

Mr. Watson stated that the city did a speed study and the neighborhood qualified for the speed bumps. However, they were unable to get enough signatures due to the church and some other neighbors who opposing it.

Monica Worwich of 1002 E. Holston Avenue expressed concern that if the church was expanding so rapidly that needed to expand the parking lot. What would happen if the church congregation was to expand and have relocate from the neighborhood leaving a large empty parking lot which is isn't good for the property values in the neighborhood. It would be an eye sore and invite crime.

Jennifer Ares of 1001 E. Holston Avenue stated that she didn't have a problem with the church or the people parking in the street. Here main concern was that if the church expands and

eventually leaves, it would leave a large empty parking lot. It would be an eye sore, draw extra heat, invite illegal parking, and crime. She was opposing to taking down the two houses and putting in a parking lot.

Mr. Povlich asked if the church could add to their building size. Mr. Neilson stated that if the church wanted to expand it would have to come back before the BZA for approval. At that time they would have to meet the parking requirements. The church is only grandfathered for what is there. In order to expand, they would have to meet the minimum requirement of parking spaces. Parking is based on the size of the sanctuary, if they use the building for office or library no additional spaces would be required.

Mr. Harrell asked if the church decides to put in a parking lot would the parking have to be paved. Mr. Neilson stated the lot would have to be paved and they would have to meet stormwater regulations.

Mr. Foster addressed concerns from the Board. He stated that their immediate plans were to fix up the house and use it as a library. They had no intention to tear down the house in the near future.

**MOTION: Harrell      To approve the special exception request to allow the church to use the building as it is. Any change would require the church to come back before the Board for approval**

**SECOND: O'Neill**

**VOTE: Approved 3-2.**

### **Case No. 767-2**

Mr. Neilson indicated that this was a request for a variance to the size of an accessory structure to allow them to tear down the existing 1,200 square foot barn and replace it with a post steel building. The petitioner indicates that the barn is deteriorating and is infested with vermin. The new building would meet building codes, and would be more attractive. He stated that the petitioner has also provided letters of support from the adjoining property owners on each side of the subject property.

In order to justify any variance, a special circumstance or condition must exist. He felt that the petitioner was simply replacing an existing building and there will be no greater impact on the surrounding properties. He felt that the new building will be more attractive and will have a positive impact on the surrounding properties and recommended approval of the request.

Valerie and Billy Brown spoke in favor of the request.

Mr. Meroney expressed a concern that if a bathroom and kitchen was included that it could be converted into an apartment. Mr. Neilson indicated that the petitioner could have a bathroom; however, if a kitchen was included it would by definition be consider an apartment and would not be permitted.

**MOTION: O'Neill    To approve this variance request conditioned upon a note be added to the building plans stating that this structure would never be used as an apartment.**

**SECOND: Povlich**

**VOTE: Approved 5-0.**

**Case No. 767-3**

Mr. Neilson indicated that this was a request for a variance to the rear yard setback from 30 feet to 10 feet in order to construct a 676 square foot addition to the home for an attached garage. He states that because the home was built on a corner lot and the structure was set back so far from the street, there was very little room for any type of addition. The petitioner also points out that his rear yard abuts his neighbor's side yard whose home is also 10 feet from the property line. The proposed addition would match the setback with the neighbor's home.

In order to justify any variance, a special circumstance or condition must exist. Although the home is built on a corner lot, there is nothing unique about the property to justify a variance. The petitioner could build a detach garage, add a small addition and meet setbacks.

Mr. Harrell pointed out that on a corner the lot the petitioner can call Kipping Street the front yard if he chooses. In that case, would the proposed addition meet the side yard setbacks? Mr. Neilson indicated yes the proposed addition would meet the sidewalk setback but the existing structure would still not meet the rear yard setback and it would still require a variance of 5 feet.

Mr. Bob Jandzinski of 2 Kingsley Circle spoke in favor of the request.

**MOTION: Benedict    To approve this variance request from 30 feet to 25 feet.**

**SECOND: Meroney**

**VOTE: Approved 5-0.**

There being no further business, the meeting adjourned at 10:04 a.m.

**APPROVED:**

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Tim O'Neill, Chairman  
Board of Zoning Appeals